

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

TRAVIS R. MCPEEK,

Plaintiff,

vs.

PAUL KLOCKER, JEFF TEBRINK,
KAYLA WILLIS, BRITANNY HEDUM,
C.O. DAWN, C.O. JOEL, SCOTT
ALLEN,

Defendants.

No. C13-0086-LRR

ORDER

The matter before the court is the plaintiff's certificate of inmate account (docket no. 3) and motion to amend complaint (docket no. 4). The plaintiff filed such certificate and motion on October 21, 2013.

Pursuant to the court's order, the plaintiff submitted a certificate of inmate account. In light of the record, it is clear that the plaintiff does not have sufficient funds to pay the required filing fee. 28 U.S.C. § 1914(a) (requiring \$350.00 filing fee). Thus, in forma pauperis status shall be granted to the plaintiff. *See generally* 28 U.S.C. § 1915. The clerk's office shall file the complaint without the prepayment of the filing fee. Although the court deems it appropriate to grant the plaintiff in forma pauperis status, the plaintiff is required to pay the full \$350.00 filing fee by making payments on an installment basis. 28 U.S.C. § 1915(b)(1); *see also In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997) ("[T]he [Prisoner Litigation Reform Act] makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal."). The full filing fee will be collected even if the court dismisses the case because it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Here, the plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of his average monthly account balance or average monthly deposits for the six months preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1). Based on his statements, the court finds that the plaintiff is unable to pay an initial partial filing fee. *Id.* Nevertheless, the plaintiff must “make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. § 1915(b)(2). The statute places the burden on the prisoner’s institution to collect the additional monthly payments and forward them to the court. Specifically,

[a]fter payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). Therefore, although the plaintiff will not be required to submit an initial partial filing fee, the remaining installments shall be collected by the institution having custody of the plaintiff. *Id.* The clerk’s office shall send a copy of this order and the notice of collection of filing fee to the appropriate official at the place where the plaintiff is an inmate.

As to the motion to amend complaint, the plaintiff clarifies the efforts that he made to exhaust his administrative remedies and adds a claim based on the defendants’ failure to release him on an unsecured signature bond. Given the state court documents that the plaintiff included with his motion to amend complaint and the records in the state court cases, *see State v. McPeck*, OWCR014831 (Plymouth Cnty. Dist. Ct. 2013) and *State v. McPeck*, FECR015017 (Plymouth Cnty. Dist. Ct. 2013), the additional claim does not appear to be viable.¹ Nevertheless, the motion to amend complaint shall be granted.

¹ Iowa state court criminal and civil records may be accessed at the following
(continued...)

Read liberally, many of the facts that are alleged in the plaintiff's amended complaint are strikingly similar to those that are alleged in *McPeck v Blanchard*, Case No. 5:13-cv-04080 (N.D. Iowa 201_). In light of the facts alleged by the plaintiff, including but not limited to the fact that he alleges he already sought relief in state court, and the law, the court is doubtful that the plaintiff states a claim upon which relief can be granted. Nevertheless, the court is unable to determine as a matter of law whether the plaintiff's amended complaint is frivolous or fails to state a claim within the meaning of 28 U.S.C. § 1915 or 28 U.S.C. § 1915A. Consequently, the court is of the opinion that the matter is best addressed after receipt of an answer and/or any dispositive motion deemed appropriate. *Neitzke v. Williams*, 490 U.S. 319, 325, 109 S. Ct. 1827, 1831, 104 L. Ed. 2d 338 (1989); *Money v. Moore*, 877 F.2d 9, 10 (8th Cir. 1989). The clerk's office shall serve the amended complaint on the defendants and mail a copy of the amended complaint to the Plymouth County Attorney without the prepayment of fees and costs. A copy of this order is to accompany the documents being served. The Plymouth County Attorney shall notify the court immediately if he lacks the consent of the defendants to appear generally on their behalf and submit to the jurisdiction of the court. The defendants shall file an answer or other dispositive motion by no later than April 4, 2014.

IT IS THEREFORE ORDERED:

- (1) The plaintiff's application to proceed in forma pauperis status (docket no. 1) is granted.
- (2) The clerk's office is directed to file the complaint without the prepayment of the filing fee.

¹(...continued)
address: http://www.iowacourts.gov/Online_Court_Services/. See *Stutzka v. McCarville*, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (addressing court's ability to take judicial notice of public records).


(3) The plaintiff need not submit an initial partial filing fee. Nevertheless, the institution having custody of the plaintiff is directed to collect and remit monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2). Until the \$350.00 filing fee is paid in full, the plaintiff is obligated to pay and the institution having custody of him is obligated to forward 20 percent of the preceding month's income credited to his account each time the amount in the account exceeds \$10.00.

(4) The clerk's office is directed to send a copy of this order and the notice of collection of filing fee to the appropriate official at the place where the plaintiff is an inmate.

(5) The plaintiff's motion to amend complaint (docket no. 4) is granted.

(6) The clerk's office is directed to serve the amended complaint (docket nos. 4 & 6) on the defendants and mail a copy of the amended complaint to the Plymouth County Attorney without the prepayment of fees and costs. A copy of this order is to accompany the documents being served. The Plymouth County Attorney is directed to notify the court immediately if he lacks the consent of the defendants to appear generally on their behalf and submit to the jurisdiction of the court. The defendants are directed to file an answer or other dispositive motion by no later than April 4, 2014.

DATED this 25th day of February, 2014.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

TO: WARDEN/ADMINISTRATOR
Fort Dodge Correctional Facility, Fort Dodge, Iowa

NOTICE OF COLLECTION OF FILING FEE

You are hereby given notice that Travis R. McPeck, #1147191, an inmate at your facility, filed the following lawsuit in the United States District Court for the Northern District of Iowa: *McPeck v. Klocker et al.*, Case No. C13-0086-LRR. The inmate was granted in forma pauperis status pursuant to 28 U.S.C. § 1915(b), which requires partial payments of the \$350.00 filing fee. Based on the inmate's account information, the court has not assessed an initial partial filing fee. 28 U.S.C. § 1915(b)(1). Nonetheless,

the [inmate] shall be required to make monthly payments of 20 percent of the preceding month's income credited to [his] account. The agency having custody of the [inmate] shall forward payments from [his] account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). Therefore, you must monitor the account and send payments to the clerk of court according to the system provided in 28 U.S.C. § 1915(b)(2), that is, you should begin making monthly payments of 20 percent of the preceding month's income credited to the inmate's account.

Please make the appropriate arrangements to have these fees deducted and sent to the court as instructed.



Deputy Clerk

Robert L. Phelps
U.S. District Court Clerk
Northern District of Iowa

**NOTICE OF LAWSUIT
and REQUEST FOR
WAIVER OF SERVICE OF SUMMONS**

TO THE NAMED DEFENDANT(S) IN THE FOLLOWING CAPTIONED ACTION:

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

TRAVIS R. MCPEEK,

Plaintiff,

vs.

PAUL KLOCKER, JEFF TEBRINK, KAYLA
WILLIS, BRITANNY HEDUM, C.O. DAWN, C.O.
JOEL, SCOTT ALLEN,


Defendants.

No. C13-0086-LRR

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint and a copy of the corresponding order from this court are attached. This complaint has been filed in the United States District Court for the Northern District of Iowa.

Pursuant to Rule 4 of the Federal Rules of Civil Procedure, you have an obligation to cooperate in saving unnecessary costs of service of summons and complaint. Please sign the enclosed document where appropriate acknowledging receipt of the complaint and notice of this pending lawsuit and waiving formal service of summons. After signing the enclosed document, please return it to the United States Clerk's Office in the envelope provided within thirty (30) days of this date: February 25, 2014

I affirm that this notice and request for waiver of service of summons is being sent to you on behalf of the plaintiff, this February 25, 2014.

 Deputy Clerk

Signature (Clerk's Office Official)
Northern District of Iowa

**ACKNOWLEDGMENT OF RECEIPT OF
NOTICE OF LAWSUIT,
and WAIVER OF SERVICE OF SUMMONS**

(**Return **this** document within thirty days after February 25, 2014, to the United States Clerk's Office in the envelope provided.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

TRAVIS R. MCPEEK,

Plaintiff,

vs.

PAUL KLOCKER, JEFF TEBRINK, KAYLA
WILLIS, BRITANNY HEDUM, C.O. DAWN, C.O.
JOEL, SCOTT ALLEN,

Defendants.

No. C13-0086-LRR

I acknowledge receipt of the complaint and notice of the lawsuit in which I (or the entity on whose behalf I am addressed) have been named a defendant. I have received and/or read the complaint accompanying this document.

I agree to save the cost of service of a summons and an additional copy of the complaint by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure. I hereby waive service of summons.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the service of summons. I understand that a judgment may be entered against me (or the entity on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served within 60 days after February 25, 2014, (the date Notice, Waiver and corresponding documents were sent).

Date _____

Signature _____

Printed name _____

As _____ of _____
(Title) (Entity)

Date _____

Signature _____

Printed name _____

As _____ of _____
(Title) (Entity)

Date _____

Signature _____

Printed name _____

As _____ of _____

(Title)	(Entity)
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Date _____

Signature _____

Printed name _____

As _____ of _____

(Title)	(Entity)
1. The Role of the Teacher	Teacher
2. The Role of the Student	Student
3. The Role of the Parent	Parent
4. The Role of the Community	Community
5. The Role of the Government	Government
6. The Role of the Media	Media
7. The Role of the Church	Church
8. The Role of the Family	Family
9. The Role of the School	School
10. The Role of the Society	Society

Date _____

Signature _____

Printed name _____

As _____ of _____

(Title)	(Entity)
1. The Role of the Teacher	Teacher
2. The Role of the Student	Student
3. The Role of the Parent	Parent
4. The Role of the Community	Community
5. The Role of the Government	Government
6. The Role of the Church	Church
7. The Role of the Media	Media
8. The Role of the Arts	Arts
9. The Role of the Sciences	Sciences
10. The Role of the Humanities	Humanities
11. The Role of the Social Sciences	Social Sciences
12. The Role of the Natural Sciences	Natural Sciences
13. The Role of the Health Sciences	Health Sciences
14. The Role of the Environmental Sciences	Environmental Sciences
15. The Role of the Life Sciences	Life Sciences
16. The Role of the Physical Sciences	Physical Sciences
17. The Role of the Earth Sciences	Earth Sciences
18. The Role of the Atmospheric Sciences	Atmospheric Sciences
19. The Role of the Oceanic Sciences	Oceanic Sciences
20. The Role of the Planetary Sciences	Planetary Sciences
21. The Role of the Astronomical Sciences	Astronomical Sciences
22. The Role of the Space Sciences	Space Sciences
23. The Role of the Interdisciplinary Sciences	Interdisciplinary Sciences
24. The Role of the Transdisciplinary Sciences	Transdisciplinary Sciences
25. The Role of the Converging Sciences	Converging Sciences
26. The Role of the Diverging Sciences	Diverging Sciences
27. The Role of the Integrative Sciences	Integrative Sciences
28. The Role of the Reductive Sciences	Reductive Sciences
29. The Role of the Analytical Sciences	Analytical Sciences
30. The Role of the Synthetic Sciences	Synthetic Sciences
31. The Role of the Computational Sciences	Computational Sciences
32. The Role of the Information Sciences	Information Sciences
33. The Role of the Communication Sciences	Communication Sciences
34. The Role of the Management Sciences	Management Sciences
35. The Role of the Business Sciences	Business Sciences
36. The Role of the Engineering Sciences	Engineering Sciences
37. The Role of the Technology Sciences	Technology Sciences
38. The Role of the Design Sciences	Design Sciences
39. The Role of the Architecture Sciences	Architecture Sciences
40. The Role of the Urban Sciences	Urban Sciences
41. The Role of the Environmental Design Sciences	Environmental Design Sciences
42. The Role of the Landscape Sciences	Landscape Sciences
43. The Role of the Urban Planning Sciences	Urban Planning Sciences
44. The Role of the Transportation Sciences	Transportation Sciences
45. The Role of the Infrastructure Sciences	Infrastructure Sciences
46. The Role of the Public Administration Sciences	Public Administration Sciences
47. The Role of the Political Sciences	Political Sciences
48. The Role of the Social Policy Sciences	Social Policy Sciences
49. The Role of the Health Policy Sciences	Health Policy Sciences
50. The Role of the Environmental Policy Sciences	Environmental Policy Sciences
51. The Role of the Life Policy Sciences	Life Policy Sciences
52. The Role of the Physical Policy Sciences	Physical Policy Sciences
53. The Role of the Earth Policy Sciences	Earth Policy Sciences
54. The Role of the Atmospheric Policy Sciences	Atmospheric Policy Sciences
55. The Role of the Oceanic Policy Sciences	Oceanic Policy Sciences
56. The Role of the Planetary Policy Sciences	Planetary Policy Sciences
57. The Role of the Astronomical Policy Sciences	Astronomical Policy Sciences
58. The Role of the Space Policy Sciences	Space Policy Sciences
59. The Role of the Interdisciplinary Policy Sciences	Interdisciplinary Policy Sciences
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61. The Role of the Converging Policy Sciences	Converging Policy Sciences
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75. The Role of the Architecture Policy Sciences	Architecture Policy Sciences
76. The Role of the Urban Policy Sciences	Urban Policy Sciences
77. The Role of the Environmental Design Policy Sciences	Environmental Design Policy Sciences
78. The Role of the Landscape Policy Sciences	Landscape Policy Sciences
79. The Role of the Urban Planning Policy Sciences	Urban Planning Policy Sciences
80. The Role of the Transportation Policy Sciences	Transportation Policy Sciences
81. The Role of the Infrastructure Policy Sciences	Infrastructure Policy Sciences
82. The Role of the Public Administration Policy Sciences	Public Administration Policy Sciences
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100. The Role of the Reductive Policy Policy Sciences	Reductive Policy Policy Sciences
101. The Role of the Analytical Policy Policy Sciences	Analytical Policy Policy Sciences
102. The Role of the Synthetic Policy Policy Sciences	Synthetic Policy Policy Sciences
103. The Role of the Computational Policy Policy Sciences	Computational Policy Policy Sciences
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108. The Role of the Engineering Policy Policy Sciences	Engineering Policy Policy Sciences
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110. The Role of the Design Policy Policy Sciences	Design Policy Policy Sciences
111. The Role of the Architecture Policy Policy Sciences	Architecture Policy Policy Sciences
112. The Role of the Urban Policy Policy Sciences	Urban Policy Policy Sciences
113. The Role of the Environmental Design Policy Policy Sciences	Environmental Design Policy Policy Sciences
114. The Role of the Landscape Policy Policy Sciences	Landscape Policy Policy Sciences
115. The Role of the Urban Planning Policy Policy Sciences	Urban Planning Policy Policy Sciences
116. The Role of the Transportation Policy Policy Sciences	Transportation Policy Policy Sciences
117. The Role of the Infrastructure Policy Policy Sciences	Infrastructure Policy Policy Sciences
118. The Role of the Public Administration Policy Policy Sciences	Public Administration Policy Policy Sciences
119. The Role of the Political Policy Policy Sciences	Political Policy Policy Sciences
120. The Role of the Social Policy Policy Policy Sciences	Social Policy Policy Policy Sciences
121. The Role of the Health Policy Policy Policy Sciences	Health Policy Policy Policy Sciences
122. The Role of the Environmental Policy Policy Policy Sciences	Environmental Policy Policy Policy Sciences
123. The Role of the Life Policy Policy Policy Sciences	Life Policy Policy Policy Sciences
124. The Role of the Physical Policy Policy Policy Sciences	

Date _____

Signature _____

Printed name _____

As _____ of _____

(Title)	(Entity)
1. The Role of the Teacher	Teacher
2. The Role of the Student	Student
3. The Role of the Parent	Parent
4. The Role of the Community	Community
5. The Role of the Government	Government
6. The Role of the Media	Media
7. The Role of the Church	Church
8. The Role of the Family	Family
9. The Role of the School	School
10. The Role of the Society	Society

Date _____

Signature _____

Printed name _____

As _____ of _____

(Title)	(Entity)
1. The Great Gatsby	1. The Great Gatsby
2. The Catcher in the Rye	2. The Catcher in the Rye
3. The Sound and the Fury	3. The Sound and the Fury
4. The Love Song of J. Alfred Prufrock	4. The Love Song of J. Alfred Prufrock
5. The Waste Land	5. The Waste Land
6. The Waste Land	6. The Waste Land
7. The Waste Land	7. The Waste Land
8. The Waste Land	8. The Waste Land
9. The Waste Land	9. The Waste Land
10. The Waste Land	10. The Waste Land

Date _____

Signature _____

Printed name _____

As _____ of _____

(Title)	(Entity)
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Address Form

Case Number: C13-0086-LRR

Date: February 24, 2014

To: Clerk of Court

RE: Service on Named Defendants

Below, please find the known (or likely) addresses for the following persons/entities who have been named as defendants to this action:

Defendant: All Defendants
Plymouth County Jail